

## INTRODUCTION

Your community has experienced a destructive flood that has caused considerable damage to property, and major social and economic disruption to the well-being of your community. Property owners probably are concerned with living in the floodplain and are asking how they can avoid future risk and damage.

### HAZARD MITIGATION GRANT PROGRAM

Presidential-declared disasters provide considerable funds to States and communities via the Hazard Mitigation Grant Program (HMGP). The HMGP assists States and local communities in implementing long-term hazard mitigation measures. The HMGP can be used to fund projects that protect public or private property. Examples of projects include:

- ☐ Retrofitting, such as floodproofing and elevating, to protect structures from future damage;
- ☐ Development of State or local standards to protect new and substantially improved structures from disaster damage;
- ☐ Development of comprehensive hazard mitigation programs with implementation as an essential component;
- ☐ Acquisition and relocation of structures from hazard-prone areas; and
- ☐ Acquisition and demolition of structures.

FEMA has regulatory oversight of the HMGP. However, the States are responsible for administering the HMGP, and prioritizing and selecting project applications from communities. States then forward project applications to FEMA for final approval.

The window of opportunity for applying for HMGP funds is relatively small. Communities that have experienced disaster damage compete for limited available funds. The effort communities must expend to complete all requirements for submitting an application that will meet both State and FEMA approval is considerable. Nevertheless, that effort is worthwhile.

## FLOOD MITIGATION ASSISTANCE PROGRAM

Your HMGP application might be fully approved. However, if your application is not approved *and* your community participates in the National Flood Insurance Program (NFIP), the effort you have expended to apply for funds under HMGP puts you in an excellent position to apply for funds under FEMA's Flood Mitigation Assistance (FMA) program. FMA is a mitigation program that is not directly related to a disaster event. FMA provides funding to assist States and communities in implementing measures to reduce or eliminate the long-term risk of flood damage to buildings, manufactured homes, and other structures insured under the NFIP. FEMA annually provides funds to the States to conduct FMA projects. The States then can offer two types of FMA grants to their communities:

42 U.S.C. 4101  
44 CFR Part 78

- ☐ Planning grants to develop or update flood mitigation plans. Plans must assess flood risk and identify actions to reduce those risks.
- ☐ Project grants to implement mitigation measures such as:
  - Elevation
  - Dry floodproofing
  - Acquisition

Only communities with structures and real property insured under the NFIP are eligible to receive a project grant under the FMA program. In addition, communities that have a State-approved mitigation plan might be in a better position to compete for HMGP funds.

### Good Idea

Preparing an acquisition plan and conducting hazard mitigation planning can help a community obtain a favorable entry under the Community Rating System (CRS) and possibly reduce flood insurance costs to citizens of the community. See *Glossary* for more information.

## CONTENTS OF THIS PHASE

This phase comprises two chapters:

- ❑ **Chapter 1 — The Basics.** Chapter 1 provides basic information about property acquisition and FEMA's requirements for a project. Its purpose is to build your knowledge base so you can successfully complete the steps you see depicted on the poster.
- ❑ **Chapter 2 — Getting Started.** Chapter 2 guides you through activities that will help you decide whether or not property acquisition is feasible for your community. The knowledge imparted by the first chapter and the activities of the second put you in the best position to decide whether to buy or not to buy.
- ❑ Part 1 of the **Toolkit** contains the following tools referred to in this phase:
  - Tool I-1, Examples of Mitigation Options
  - Tool I-2, SHMO<sup>1</sup> Shopping List
  - Tool I-3, Sample Job Description
  - Tool I-4, Town Meeting Checklist
  - Tool I-5, Conducting Town Meeting Checklist
  - Tool I-6, Sample Agenda
  - Tool I-7, Sample Presentation Notes
- ❑ Part 2 of the **Toolkit** contains the following forms:
  - Form I-1, Hazard Mitigation Project Strategy
  - Form I-2, Property Owner Questionnaire I
  - Form I-3, Self-assessment Worksheet

<sup>1</sup>See *Glossary and Acronyms*

## CHAPTER 1 — THE BASICS

Since the devastating floods of 1993, States with flood-prone communities have generally opted to accept and forward to FEMA a large percentage of community applications outlining acceptable property acquisition projects. Generally, property acquisition, which forever removes vulnerable property owners from the floodplains, is the best and most cost-effective mitigation alternative.

This handbook is designed to help communities through the property acquisition process — from formulating a potentially successful application, through implementing and closing out a project, to managing and maintaining acquired open space. But, first, you must decide —

*Is property acquisition the best and most cost-effective mitigation alternative for my community?*

This phase of the handbook, **Phase I — To Buy or Not to Buy**, will help you make that decision.

This first chapter gives you a basic understanding of property acquisition. It presents — as far as possible in layperson's terms — the laws, regulations, and policies that drive the property acquisition process.

## CRITERIA FOR PROJECTS FUNDED UNDER HMGP

### ■ Minimum criteria

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288) is the statute governing the HMGP. Its implementing regulations are located in Title 44 of the Code of Federal Regulations (CFR).

*44 CFR §206.434 (b)*

By Federal law and regulation, any property acquisition project using HMGP funds must, at a minimum:

*See the Appendix to this phase for an explanation of 44 CFR Parts 9 & 10*

- ☐ Conform to the State's Section 409 Hazard Mitigation Plan
- ☐ Conform to 44 CFR Part 9, Floodplain Management and Protection of Wetlands, and 44 CFR Part 10, Environmental Considerations
- ☐ Independently solve or be a functional part of a solution to a problem
- ☐ Prove to be cost-effective and a substantial reduction of future risk because it:
  - Addresses a problem that is repetitive or poses a significant risk to health and safety
  - Is the most practical, effective, and environmentally sound alternative among a range of alternatives
  - Is or contributes to a long-term solution to a problem
  - Considers long-term changes to the areas it protects
  - Costs less than its anticipated benefits

### Costs and Benefits

FEMA or State financial analysts will perform a benefit-cost analysis (BCA) to determine if your project is cost effective. A project is cost-effective if its benefits are equal to or higher than its costs. The BCA compares the present-day cost of a project to its long-term benefits. Benefits simply are future damages that do not occur because a project has been implemented. Because acquisition projects permanently eliminate flood risks for purchased properties, their benefits continue far into the future.

## ■ Property acquisition and relocation requirements

Any community implementing a property acquisition project using HMGP funds:

44 CFR §206.434 (d)

- ☐ Must dedicate and *forever* maintain acquired property as open space.
- ☐ Must provide assurances that certain restrictions will be conveyed in the deed to acquired property.
- ☐ May not apply for or receive additional disaster assistance for acquired property. (However, farmers are still eligible for Federal Crop Insurance.)
- ☐ Must acquire properties only from property owners who *voluntarily* agree to sell their properties, and notify property owners in writing that it will not use its power of eminent domain to acquire properties if a voluntary agreement is not reached.

## ■ Other criteria

Through the implementation of property acquisition projects over the past several years, FEMA has established guidance policies to manage the finer details of project implementation and comply with other federal laws and regulations relating to property acquisition. Those policies include the following:

FEMA Policy

- ☐ Structures relocated from acquired property must be placed outside the 100-year floodplain.
- ☐ Structures must be demolished or removed from acquired property within 90 days of closing. (In extraordinary circumstances, States may allow exceptions to this requirement.)
- ☐ Ownership of acquired property may not be conveyed to private citizens or entities; ownership may be conveyed to other public entities or nonprofit organizations with the approval of the State and FEMA.

- ❑ Communities should assist FEMA in coordinating with their State Historic Preservation Officer (SHPO) regarding any structures that are 50 years old or older, or have historic significance.
- ❑ Communities may not use FEMA funds to acquire properties that are contaminated by hazardous materials (other than general household hazardous materials such as lead paint and asbestos). If a property contains hazardous materials, it must be cleaned up *before* it can be acquired.
- ❑ Flood-prone communities receiving HMGP funds must participate in the National Flood Insurance Program (NFIP). However, if your community has not been mapped, contact your State's floodplain management official; you may be eligible to receive HMGP funds. (For communities not participating at the time of the disaster, the State may consider and forward to FEMA their HMGP applications *if* they enter the NFIP within six months of the disaster declaration.)
- ❑ Because of the voluntary nature of acquisition, homeowners are not entitled to assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA). However, displaced tenants are entitled to assistance under the URA, and additional relocation assistance might be available to low-income homeowners living in floodplains.
- ❑ Communities must subtract from the purchase price of every property the total value of other disaster-related repair assistance paid to the owner to avoid duplicating benefits, *unless* the property owner can provide receipts showing that the benefits were used for their intended purposes (e.g., home repair). This policy is known as duplication of benefits (DOB), and is explained in detail in Phase II<sup>2</sup>. To summarize, DOB avoids using tax dollars to provide the same benefits to one citizen twice. This deduction applies if the community uses pre-flood fair market value. The deduction does not apply if the community uses post-flood market value.
- ❑ Communities must accept responsibility for monitoring and enforcing the proper use of acquired property as open space.

<sup>2</sup>Only federal disaster-related assistance paid for the repair or replacement of structures is considered DOB.

### What is allowable open space use?

Generally, allowable open space uses for acquired property include, but are not limited to, recreation; preservation; cultivation; grazing; camping (if adequate warning and evacuation time is available); non-commercial, temporary, open storage of vehicles that are easily moveable (such as recreational vehicles); and unimproved permeable parking lots. See Phase IV for more detail on allowable use of acquired property.

## MONEY MATTERS

### ■ Project costs

HMGP funds help communities pay some of the project and administrative costs of implementing an acquisition project. Project costs include, but are not limited to:

- ☐ The fair market value (FMV) of each property
- ☐ Costs of conducting appraisals, lot surveys, title searches, closings, demolitions, and relocations
- ☐ Tenant relocation assistance
- ☐ Legal fees relating to contract review and settlement

### ■ Cost Share

Under the HMGP, FEMA may contribute up to 75 percent of your project costs. Your community must formally agree to provide a local match in the amount of the remaining project costs (at least 25 percent). However, sources may be available to help you meet those project costs, such as:

*44 CFR §206.432 (c)*



- ❑ **Your State.** Ask your SHMO if your State has made funds available and in what percentage or amount.
- ❑ **Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG).** You can use existing and supplemental appropriation CDBG funds toward your local match.
- ❑ **Donated funds.** Monetary donations from individuals and organizations (e.g., a local civic organization) can be applied toward the local match.
- ❑ **In-kind services.** Donated services (e.g., demolition) also can be applied toward the local match. (Often in such cases, a community will grant the demolition company salvage rights.)
- ❑ **Property Owners.** Property owners can use their own funds or donate 25 percent of the FMV of their properties. Property owners also can apply their Increased Cost of Compliance (ICC) claims toward the local match because the purpose of ICC is to assist property owners in implementing mitigation measures.

### Increased Cost of Compliance (ICC)

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When a structure covered by a standard flood insurance policy under the NFIP sustains a flood loss and is declared to be substantially or repetitively damaged, ICC helps pay property owners for the cost of mitigation measures, to include elevation, demolition, and relocation, up to \$15,000. ICC claims apply to structures only.<sup>3</sup> See FEMA 301, *Increased Cost of Compliance Coverage*, for more information.

<sup>3</sup>See *Glossary* for more information on substantial damages

## ■ Administrative costs

In addition, FEMA currently contributes administrative costs on a sliding scale based on your total project costs. Administrative costs include the extraordinary costs your community incurs to administer your sub-grant such as the cost of preparing reports, overtime, and incidental expenses. *44 CFR §206.439 (b)*

### Sliding Scale

Project Costs	Percent
first \$100,000	3%
next \$900,000	2%
next \$4,000,000	1%
costs over \$5,000,000	½%

For example, if your total project costs are \$6,000,000, FEMA will provide no more than \$4,500,000 (75 percent) of your project costs and \$66,000 of your administrative costs:

Project Costs	Scale	Administrative Costs
\$6,000,000	\$100,000 x 3%	\$3,000
(\$6,000,000-\$1,000,000) \$5,000,000	\$900,000 x 2%	\$18,000
(\$5,000,000-\$900,000) \$4,100,000	\$4,000,000 x 1%	\$40,000
(\$4,100,000-\$900,000) \$3,200,000	\$1,000,000 x ½%	\$5,000
<b>Total Administrative Costs</b>		<b>\$66,000</b>

Since administrative costs are provided on a sliding scale, other “indirect costs” (e.g. overhead) are not allowed.

## TYPES OF PROPERTY ACQUISITION

Generally, we can divide property acquisitions into two broad categories: basic acquisition and acquisition and relocation of structures.

### ■ Basic acquisition

A basic acquisition project simply acquires land and structures, and demolishes the structures located on the land. It is conducted like any other real estate transaction, and is the easiest type of acquisition project to implement and manage.

### ■ Acquisition and relocation of structures

An acquisition and relocation project is a basic acquisition that acquires land, but offers an alternative to demolishing structures: moving them out of harm's way, outside the floodplain. Relocation might mean simply moving a structure to another lot, or reestablishing an entire neighborhood at a new site within the community. A structure can be relocated on the same property if a portion of it is outside the floodplain. Relocation often is a good way to protect historic structures.

#### **Relocating a Neighborhood: Village of Rhineland, Missouri**

Rhineland, Missouri has a history of repetitive flooding, including four flood events in 1993 alone. Rhineland also has an old heritage and sense of community; its citizens have family ties and roots in the community dating back generations. Although mitigation for Rhineland means its survival, preserving its sense of community is just as important. As a result of the 1993 floods, Rhineland has used HMGP funds to move 32 homes from flood-prone bottomland to a bluff above the floodplain. It has used HUD CDBG funds and local bonds to build new roads and infrastructure to re-establish the neighborhood on the bluff. The local power company donated installation of new lines. As a result, the relocated homes have quadrupled in value.

## METHODS OF PROPERTY ACQUISITION

### ■ Fee-simple acquisition

Fee-simple acquisition simply means acquiring title to land and structure(s). By law, restrictions must be attached to the deed (see Form II-11). Restrictions include the following:

44 CFR §206.434(d)(1)

- ☐ The property shall be dedicated and maintained in perpetuity for uses compatible with open space, recreational, or wetlands management practices.
- ☐ No new structure(s) will be built on the property except for the following:
  - A public facility open on all sides and functionally related to a designated open space or recreational use;
  - A public rest room that is wet floodproofed; or
  - A structure compatible with open space, recreational, or wetlands management use and proper floodplain management policies and practices, which FEMA's Director approves in writing before construction of the structure begins.

### ■ Acquisition of a conservation easement

Conservation easements are practical in agricultural areas where the owner wants to retain title to and continue farming his or her property. It also is practical where acquiring a large parcel of property is cost prohibitive. Simply defined, an easement is a right of passage over someone else's land. However, an easement can be used to prevent the owner from doing certain things. A conservation easement is an easement that prevents the property owner from developing the property. The property owner retains title to his or her property and can transfer title. However, the terms of a conservation easement acquired using HMGP funds carry the same restrictions as fee-simple acquisition, and the property is forever subject to those terms, regardless of who has title.

## PROPERTY ACQUISITION AND THE PROPERTY OWNER

Among the biggest challenges of property acquisition is managing the property owners' expectations. The best ways to meet these challenges are to understand and communicate with the property owners.

### ■ Understand the property owners and what motivates them.

You might find that some property owners are eager to sell their property. Others may be reluctant, apprehensive, or undecided. Others might be absolutely against the idea. Many factors influence a property owner's decision whether or not to sell. Examples include:

- ☐ Personal finances
- ☐ Degree of damage and amount of personal property lost
- ☐ Value of property
- ☐ Age of household
- ☐ Size and makeup of household
- ☐ Personal acceptance of risk
- ☐ Neighbors' decisions
- ☐ Family's and friends' opinions
- ☐ Quality of life offered in a new neighborhood, whether it is a relocated neighborhood or simply the area in which the property owner chooses to buy after selling his or her property to the community

Property owners are influenced by those factors in different ways. For example, one elderly couple whose children are grown might be eager to sell their large home with its large yard and move to a smaller home or condominium outside the hazard area. On the other hand, another elderly couple might be reluctant to sell the home where they raised their children, despite the risks of future disasters.

## ■ Communicate with the property owners.

Misconception also influences property owners' decisions and continued support of a project. Therefore, one of the most important tasks you can do is *communicate* with the property owners. It also is one of the easiest; all it requires is accessibility, honesty, and consistency. Some of the means of communication you can use include:

- ❑ **Point of contact (POC).** Provide a single POC who the property owners can get to know, and to whom they have regular and consistent access.
- ❑ **Informational materials.** FEMA and your State probably have brochures and pamphlets on hand that you can use. Ask your SHMO.
- ❑ **Public announcements and notices.** Use local radio and television stations to air public service announcements (PSAs). Publish public notices in local newspapers, community newsletters, and other local publications; and post them in houses of worship, community and shopping centers, and other places where people tend to gather. If your community comprises ethnic groups who speak other languages in addition to or instead of English, use those languages in your announcements and notices. If you do not, you risk excluding some property owners and violating anti-discrimination laws, as well as undermining the success of your project.
- ❑ **Public meetings.** Nothing can substitute face-to-face contact and open forums that allow for two-way exchange. This handbook contains details on how to conduct at least one town meeting during each phase of the process. If necessary, provide foreign and sign language interpreters at town meetings.
- ❑ **Hotlines.** If your community has the resources, establish a hotline that property owners can call to receive basic information and/or ask questions.

Feedback and timeliness also are important to communication. Listen to what property owners have to say, and respond to their questions as quickly and accurately as possible.

■ **Manage property owners' expectations.**

The property owners must understand from the beginning that property acquisition, despite its mitigation effectiveness, might not make them whole again. However, they will receive *fair* compensation for their property. Property acquisition presents a good opportunity for them to recoup a large part of their investment in property that probably has lost some, if not most, of its value; but it will not compensate for their entire emotional and financial losses. In addition, they must understand that property acquisition takes time. No matter how dedicated your community, State, and FEMA regional staff are, property acquisition requires a lot of work . . . work that simply cannot be completed in just a few weeks time no matter how large your staff is nor how many hours they work. The good news is lessons learned and applied during the 1990s continually help speed the process and increase its efficiency. Under the *best* circumstances, property acquisition, from disaster occurrence to real estate closing, might take at least 7 to 18 months to complete.

## CHAPTER 2 — GETTING STARTED

### Good Ideas

- 1 Conduct damage assessments as soon as possible. Both the NFIP and HMGP require accurate assessments.
- 2 Identify and declare substantially damaged buildings as quickly as possible. (Substantially damaged means the cost of restoring a structure to its pre-disaster state would equal or exceed 50 percent of its pre-disaster market value.<sup>4</sup>)

You now have a basic understanding of property acquisition under the HMGP. This chapter gets you started in the property acquisition process itself. It guides you through the important steps of making a decision “to buy or not to buy.”

## EVALUATE YOUR MITIGATION OPTIONS

Your first step is to look at the mitigation options that might benefit your community. This serves two purposes: first, it enables you to determine which is best for your community; second, it helps collect data for your application. Remember — to receive funding, you must prove that your proposed project is the best alternative among a range of options considered. In fact, you should describe at least three alternatives (one of which is “no action”) on your application. Mitigation options include, but are not limited to, those described in Tool I-1 in the Toolkit.



*Tool I-1*

<sup>4</sup>See FEMA 311, *Guidance on Estimating Substantial Damage* for more information



Your State Hazard Mitigation Officer (SHMO) and regional and local planners and engineers can help you identify and evaluate which alternatives are viable for your community. Alternatives that may not be funded by the HMGP might be funded by other Federal or State agencies. If your community wants to pursue an alternative that is not eligible under HMGP, ask your SHMO to help you find other sources of funding.



## DETERMINE YOUR STATE'S PRIORITIES AND PROCEDURES

After evaluating your mitigation options, if you decide that you want to further explore property acquisition, your next step is to talk with your SHMO. Your State has developed and continues to maintain planning documents known as the State Section 409 Hazard Mitigation Plan, or simply the 409 Plan, and the State Section 404 Administrative Plan for the Hazard Mitigation Grant Program, or simply the State 404 Plan. Those plans, to some degree, create the context of all mitigation projects conducted within your State and establish procedures all communities must follow. In addition, your State might have established guidance for many of the decisions you are about to make, such as prioritizing properties for acquisition. So, before you go any further, you should contact your SHMO. You will find a "SHMO Shopping List" (Tool I-2) in the Toolkit. Use this tool as a checklist to ensure you ask for and get everything you need.

*Tool I-2*



## IDENTIFY PROJECT TEAM

Ideally, the same project team should see the project through, from this decision-making phase through application to implementation. Also, ideally, your project team leader will be qualified and available to serve as your local sub-grant administrator as you implement your project.

Alternatively, your team leader can lead your team through the decision-making and application phases, and then turn the project over to the local sub-grant administrator for implementation. Once you have submitted your application, you can search for a local sub-grant administrator pending approval of your application.

You will find a sample job description for a local sub-grant administrator in the Toolkit (Tool I-3).

*Tool I-3*

### ■ What does the project team do?

The project team does everything discussed in this Handbook from this point forward in Phases I, II and III (see poster).

### ■ What should I look for in a team leader?

Planning a project and completing an application is a lot of work and requires input from many sources. The project leader will be the primary point of contact (POC), representing your community to the State and property owners. Consequently, look for someone who is:

- ☐ A strong, responsible leader
- ☐ Able to delegate tasks to match team members' skills and interests
- ☐ A good verbal and written communicator
- ☐ Organized, reasonable, and even-tempered
- ☐ Able to work with and gain the respect of team members, State and local officials, and (most important) property owners and tenants
- ☐ Able to work with people who are under considerable stress
- ☐ Able to troubleshoot problems and defuse tense situations
- ☐ Knowledgeable of local, regional, and State governments; and their departments, activities, and personnel

## ■ Who should be on my project team?

Anyone who is willing to help or serve as a resource should be on the team. You will need a mix of people who support the project and want it to succeed and who can:

- ☐ Interact with property owners and tenants, both in large groups and one-on-one
- ☐ Interact with State and local officials and government personnel
- ☐ Conduct research
- ☐ Speak in public
- ☐ Write well
- ☐ Prepare a budget
- ☐ Organize and maintain a filing system
- ☐ Provide clerical support

Your project team can comprise local and regional employees, paid consultants, and volunteers (to include property owners and tenants). At some point during your project planning or while developing your application or implementing your project, you may need technical assistance from legal counsel, appraisers, tax assessors, surveyors, engineers, budget analysts, grant specialists, building inspectors, zoning administrators and other experts. You likely will be able to find people who can provide this assistance among current local, regional, or State employees; contractors or consulting firms; independent consultants; citizen groups; colleges and universities; private organizations; etc. Those experts who provide technical assistance can be either members of the team or simply available to the team on an as-needed basis. Services provided by those experts on a voluntary basis during implementation might count as donated in-kind services toward your local match.

## ■ What about a team to develop my open space plan?

Since you must maintain any property you acquire as open space, begin planning how best to use that property as early as possible. You probably will find greater efficiency if you build an open-space team separate from your project team. The two teams can work in parallel and share data.

## OUTLINE PROJECT STRATEGY

With the information provided by your SHMO as your framework and your team in place, you now are ready to start strategizing a potential project. Your strategy must work within the context of your State's hazard mitigation goals and objectives. Ultimately, your strategy will become the foundation for the community's Hazard Mitigation Plan.



Outlining your strategy begins with an assessment of how things are and a vision of how things can be. Use Form I-1 in Part 2 of the Toolkit to capture your project strategy and prioritize target properties, which is discussed in the next section. If you decide to buy, you can use much of this data on your application. To begin:

*Form I-1*

- ☐ Record basic data about your community, such as its population, area size, elevation above sea level, industry and economy, infrastructure, services, and topography. (Your State's economic and business development, environmental, and housing agencies can help. Also, check census records.)
- ☐ Summarize your community's disaster history. Go back at least 25 years, and farther if your community has suffered through significant disaster events. Check public and media records for as much detail as possible. (Your State's department of natural resources should have much of this data.) Include the year and type of event (e.g., flood), a description, and the amount of damages expressed in dollars. The description of the event should include its:
  - Cause (e.g., hurricane, melting snow, torrential rains, etc.)
  - Type of event (e.g., 100-year flood)

- Severity expressed in measurable terms (e.g., floodwaters rose two feet above the average three-foot flood stage)
  - Effects on life and property (e.g., 1 person was killed, 8 were injured, 52 properties were substantially damaged, and 219 were otherwise damaged)
  - Effects of past disasters on property and structures damaged during this most recent event (e.g., 100 Maple Avenue was flooded in 1992 and suffered damages totaling \$10,000; and again in 1995 with damages totaling \$12,000), as well as the effects of the recent disaster (e.g., 100 Maple Avenue was substantially damaged)
  - Rescue and recovery efforts (e.g., 500 people were evacuated from their homes)
- ☐ Identify and describe the areas affected by this most recent disaster and the damages suffered.
- ☐ Assess and describe the future risks from natural disasters to lives, property, infrastructure, and services within your community. Use historical data and characteristics of the area to extrapolate those future risks. On your application, you must describe a repetitive problem that your project would solve. This activity coupled with the one above will enable you to do that.
- ☐ Identify at-risk areas such as floodplains, and describe their vulnerability in terms of flood elevation and development.
- ☐ Identify alternatives to property acquisition. Since you have already evaluated your mitigation options, you should be well prepared to identify alternatives to property acquisition. On your application, you must demonstrate that you have considered at least three viable alternatives, of which property acquisition is one and no action may be another. (Your State might require more than three.) Identify and describe those alternatives now. For each alternative, describe:
- How well it would solve the problem
  - How it would address a recurrent or repetitive problem

- Its implementation and maintenance costs vs. the costs of future disasters if the alternative is not implemented
  - Its advantages and disadvantages
- ❑ Begin early to consider how you might use acquired property. Potential use should coincide with your community's overall environmental, conservation, recreational, and floodplain and wetlands management goals. FEMA does not require you to identify how you will use the acquired property, only that you make binding promises that you will maintain it as open space for all time. (This promise usually is in the form of an assurance on the application.)

## PRIORITIZE TARGET PROPERTIES

Prioritizing properties for acquisition will be among your most challenging decisions. You might not receive enough HMGP funds to purchase every property you would like to acquire. Furthermore, your State or FEMA might ask you to explain your selection of properties to acquire. To prioritize target properties:



- ❑ Establish measurable and unbiased criteria by which you can classify properties
  - ❑ Rank criteria into priorities
  - ❑ Group target properties by criteria
- **Specific criteria**

Identify specific criteria that apply to properties within your community. For example:

- ❑ Properties that have been substantially damaged
- ❑ Properties that have suffered repetitive losses

- ☐ Properties that are insured under the NFIP
- ☐ Properties that are located in the floodway
- ☐ Properties that are located in the floodplain (e.g., identify 10-, 25-, 50-, 100-, 500-year floodplains as they apply to your community)
- ☐ Properties that are residential (and further classify such properties as those that are primary or secondary residences, and those that are owner- or tenant-occupied)
- ☐ Properties that are vacant lots
- ☐ Properties that are commercial
- ☐ Any other as directed by your State

### ■ Priorities

Based on any priorities established by your State and the criteria applicable to your community, establish your community's priorities. For example:

- ☐ **Priority 1:** Properties that are primary residences and substantially damaged, located in the floodway, and either insured or uninsured
- ☐ **Priority 2:** Properties that are primary residences and substantially damaged, located in the floodplain, and insured
- ☐ **Priority 3:** Properties that are primary residences and substantially damaged, located in the floodplain, but not insured
- ☐ **Priority 4:** Properties that are contiguous lots to priorities 1, 2, and 3

The actual number of ranked priorities will depend on your State's priorities and your community's criteria. Describe your priorities as definitively as possible. Regardless of how detailed your priorities are, briefly explain why each is a priority and why it is ranked as it is.

### Good News

Acquisition of substantially damaged properties in floodways or floodplains in NFIP-participating communities generally are cost-effective, and may be processed more quickly than acquisition of other properties. Check with your SHMO.

## CONDUCT TOWN MEETING

The handbook incorporates a town meeting in each phase. The Toolkit contains two tools to help you prepare for any town meeting. Tool I-4, Town Meeting Checklist, is a one-page checklist you can use before each town meeting to ensure you are adequately prepared. Tool I-5, Conducting Town Meeting Checklist, will help you complete the checklist the first time.



*Tools I-4 and I-5*

This first town meeting serves two purposes: it presents general information about property acquisition to property owners and begins to gauge their interest in participating. Therefore, give them enough information to enable them to begin thinking about that important decision. During this town meeting:

- ☐ Summarize hazard mitigation. Explain hazard mitigation simply, using enough detail to define it but not so much that you lose the property owner's interest. The property owners are mostly interested in the details that directly affect them.
- ☐ Explain property acquisition. Explain that property acquisition is only one form of hazard mitigation, but the most permanent form. Describe how it works. Briefly discuss relocation of structures.
- ☐ Explain fair compensation. Knowing they will receive a fair price for their property is important to them.



- ❑ Stress the fact that property acquisition requires voluntary participation. Property owners might be concerned that the government will try to force them to sell their homes. Assure them that property will be acquired *only* from owners who want to sell, and the community will *not* use its power of eminent domain to acquire property.
- ❑ Identify the types of costs that the community will pay for, and those that it will not.
- ❑ Explain duplication of benefits. During Phase II, the application phase, you will have an opportunity to explain duplication of benefits in detail during a town meeting. However, money is an important issue. Take this opportunity to *briefly* introduce property owners to duplication of benefits, and advise property owners to save all their receipts.
- ❑ Explain advantages and disadvantages of property acquisition to the property owners so they can make an informed decision as to whether or not they want to sell their property.
- ❑ Explain the property owners' obligations. Create a sense of teamwork. Explain that the property owners have active roles to play and can move the process along by:
  - Attending town meetings and promptly returning completed questionnaires
  - Evaluating their options and making decisions in a timely manner
  - Providing the documentation the community requests of them in a timely manner
  - Keeping their appointments for one-on-one meetings, appraisals, closings, etc.
- ❑ Explain alternatives to property acquisition, and the advantages and disadvantages of each. Share the knowledge you learned while evaluating your mitigation options.
- ❑ Identify your priorities for targeting properties. Briefly describe each priority and explain why it is ranked as it is.

- ❑ Answer questions. Solicit questions and answer them as fully as you can. Have knowledgeable State and local officials and employees on hand to provide answers. If you cannot answer any given question, tell the property owner you do not know the answer, but will find it. If you cannot answer it by the end of the meeting, publicize the answer later. Do not improvise an answer if you are uncertain.
- ❑ Ascertain the property owners' interest. This is a major purpose of the meeting. You can only proceed with a property acquisition project if the property owners are interested in selling. Open the floor to general discussion, and allow property owners to express their opinions and ask new questions. Distribute Property Owner's Questionnaire I (see Form I-2), and ask property owners to complete it before they leave. Designate someone to collect the completed questionnaires.
- ❑ Pass around a sign-up sheet (use two or more for large groups). Ask property owners to print their names, addresses, and telephone numbers regardless of their level of interest. The sign-up sheet will help document the meeting and establish a mailing list. (You also can use it to determine if any questionnaires are missing.)
- ❑ Compile minutes. Designate a recorder to compile the minutes of the meeting.

*Form I-2*

You will find a sample Agenda (Tool I-6) and Presentation Notes (Tool I-7) for this town meeting in the Toolkit. The Presentation Notes provide appropriate detail for this meeting's talking points.

*Tools I-6 and I-7*

## COMMUNITY WANTS BUYOUT?

After the town meeting, you reach an important decision point. Immediately, review and evaluate the property owner questionnaires. What do they indicate about the property owner's interest in participating in a project? What does the meeting itself indicate?



If the property owners are not interested, property acquisition obviously is not an appropriate mitigation alternative for your community. However, if they are interested, it might be. You have two more considerations before you can make a final decision. Those considerations are:

- ☐ Your community's ability to complete a project
- ☐ The impact of a project on your community



## EXAMINE ABILITY TO COMPLETE PROJECT

Applying for funds and implementing a project if FEMA approves the funds requires:

- ☐ Coordination among property owners; Federal, State, and local governments; and contractors and consultants
- ☐ Constant and consistent communication with the property owners
- ☐ Long-term management of acquired property

### ■ Examine your ability to fulfill those requirements and successfully complete a project.

- ☐ Look carefully at the current and future commitments of your project team members, and local and regional employees
- ☐ Determine what property data (e.g., tax assessments, legal descriptions, plats, elevations, etc.) are readily available to you, and how easily you can gather data not readily available
- ☐ Determine your ability to provide the local match (at least 25 percent)
- ☐ Develop an administrative budget for submitting an application, and implementing and completing a project
- ☐ Estimate time lines for submitting and completing an application (which is dependent on your State's deadlines), and implementing and completing a project (which might require at least 7 to 18 months)

■ **Ask yourself the following questions and carefully evaluate your answers.**

- ☐ Does your community have the human and physical resources to see the project through?
- ☐ Is a project manageable considering the existing workloads on local and regional staffs?
- ☐ Will existing workloads suffer if your community implements a project?
- ☐ Does your community have the financial resources to supplement the administrative costs FEMA will contribute?
- ☐ Does your community have the human, physical, and financial resources to plan, manage, and maintain open space?

Your answers to the above questions will determine your *ability* to complete a project.

## EXAMINE PROJECT'S IMPACT ON COMMUNITY

You have one more consideration before you are able to make a fully informed decision to buy or not to buy; that is, the impact of a project on your community as a whole. Property acquisition can have both positive and negative impacts on your community. Generally, the positive impacts are the same for any community. However, the possible negative impacts affect every community differently.



■ **Positive impacts of property acquisition include the following:**

- ☐ It provides more complete and permanent protection from future hazards than other mitigation alternatives because it permanently removes people from harm's way
- ☐ It reduces the financial and emotional costs of future disasters because every acquired property represents one less area where your community must direct response, evacuation, rescue, and recovery efforts

- ☐ It is consistent with general environmental, conservation, recreational, and wetland management goals
- ☐ It can help achieve floodplain management objectives because it helps expand flow-carrying capacity by increasing flood storage areas
- ☐ It makes land available for public use

■ **To evaluate the possible negative impacts of property acquisition on your community:**

- ☐ Determine the effect property acquisition may have on property values and taxes. Consider relocating homes to non-flood-prone areas of the community.
- ☐ Determine the effect of a revised tax base on your community's ability to maintain services.
- ☐ Based on your identified properties, determine the effect of not acquiring all properties within a priority or omitting an entire priority (or priorities).
- ☐ Identify potential resources of funds for acquiring properties not covered by HMGP funds (e.g., FMA), and then evaluate the likelihood of tapping those resources.
- ☐ Identify potential political or socioeconomic implications. For example, evaluate whether or not property acquisition unfairly benefits one ethnic group or inadvertently discriminates against another; or may reduce services or access to a portion of the community.
- ☐ Determine the long-term budgetary impact of maintaining acquired property as open space. Identify potential non-profit partners to assist with this task.
- ☐ Determine, based on available information, if historic buildings valuable to the community might be affected. Consider relocating or floodproofing historic structures.

**■ Also, evaluate how your project:**

- ☐ Assists citizens directly affected by the disaster
- ☐ Addresses your community's goals to:
  - Ensure a clean, safe, healthy environment
  - Attract and retain an adequate workforce
  - Provide adequate infrastructure to support development
  - Provide adequate housing
  - Preserve historic areas
  - Promote economic development
  - Maintain an adequate tax base

## COMMUNITY HAS RESOURCES AND CONSENSUS TO PROCEED?

The time has come to make a decision. See the Toolkit for a self-assessment worksheet (Form I-3) that will help you ascertain whether or not property acquisition is the right mitigation alternative for your community.



Form I-3

**If you decide “to buy,” go on to the next phase of this handbook, *Phase II — Application*.**

**On the other hand, if you decide “not to buy,” reconsider other mitigation alternatives.**

**Once you’ve made a decision, make a public announcement.**

## APPENDIX

### 44 CFR PARTS 9 & 10

Part 9 of Title 44 implements and enforces Executive Orders (EOs) 11988, Floodplain Management, and 11990, Protection of Wetlands. In support of these EOs and the National Environmental Policy Act (NEPA) of 1969, FEMA:

- ☐ Avoids any adverse impact associated with the development or modification of floodplains, and the destruction or modification of wetlands
- ☐ Does not support development on floodplains and in wetlands if a practicable alternative exists; and generally minimizes the destruction, loss, or degradation of wetlands
- ☐ Reduces the risk of flood loss; and minimizes the impact of floods on human health, safety, and welfare
- ☐ Promotes nonstructural flood protection methods to reduce the risk of flood loss
- ☐ Restores and preserves the natural and beneficial values served by floodplains
- ☐ Preserves and enhances the natural values of wetlands
- ☐ Involves the public throughout the floodplain management and wetlands protection decision-making process

Part 10 further supports the NEPA by ensuring that FEMA and any recipient of FEMA funds take care to:

- ☐ Evaluate effects of actions on the environment
- ☐ Protect, restore, and enhance the quality of the environment
- ☐ Avoid or minimize negative impacts on the environment

- ☐ Preserve historic, cultural, and natural aspects of our national heritage and diversity

To this end, FEMA conducts environmental reviews of the projects it funds to determine their impact on the environment. Exempt from extensive review under NEPA are projects that FEMA may determine have:

- ☐ Minimal or no effect on environmental quality
- ☐ No significant change to existing environmental conditions
- ☐ No significant cumulative environmental impact

## WHAT DO 44 CFR PARTS 9 & 10 MEAN TO MY COMMUNITY?

They are meaningful in three ways:

- ☐ FEMA must determine whether or not an environmental review is necessary and to what extent one is necessary. Therefore, provide enough information on your application for FEMA to make that determination. This handbook and your SHMO and State environmental office will help you do that. Barring extraordinary circumstances, a property acquisition project typically has a positive impact on the environment and is exempt from the requirement for a more lengthy environmental assessment under NEPA. However, an acquisition project that involves FEMA funding of a relocation subdivision might require a more extensive review.
- ☐ FEMA also is required to comply with the requirements of other laws including, but not limited to, those governing historic buildings, archeological resources, and hazardous and toxic materials. You will be asked to provide specific information and assist researching these issues.



- ❑ You must keep the members of your community involved by keeping them informed. You can do this through public forums, such as public announcements and public meetings. Furthermore, you must give the public opportunities to express their opinions through surveys, public meetings, etc. Again, this handbook will help you meet this requirement.

